

COURT OF COMMON PLEAS

HAMILTON COUNTY, OHIO

STATE OF OHIO

PLAINTIFF,

vs.

FREDRICK HALL

DEFENDANT.

Case Number: B-980752

Volume 2 of 4

TRANSCRIPT OF TRIAL TESTIMONY

APPEARANCES:

WILLIAM ANDERSON, ESQ.

On behalf of the Plaintiff.

ELIZABETH ZUCKER, ESQ.

and

JAMES RADER, ESQ.

On behalf of the Defendant.

BE IT REMEMBERED that upon the hearing of this cause, in the Court of Common Pleas, before the Honorable STEVEN E. MARTIN, one of the judges of the said Court of Common Pleas, on the date hereinafter stated, the following proceedings were had.

1 MORNING SESSION, Thursday, April 29, 1999

2 THE COURT: Ready to continue with the
3 cross-examination of the police officer, Ms.
4 Zucker?

5 MS. ZUCKER: Yes, I am.

6 GREGORY EATRIDES

7 being first duly sworn, was examined and testified as
8 follows:

9 CROSS-EXAMINATION

10 BY MS. ZUCKER:

11 Q. Good morning, Officer Eatrides.

12 A. Good morning.

13 Q. My name is Liz Zucker.

14 Dr. Parrott was telling us there was this
15 new high tech kit for testing gunpowder residue on
16 suspects' hands. Are you familiar with that?

17 A. I'm not familiar with the new testing
18 methods for that, no.

19 Q. I heard it was readily available for most
20 police departments.

21 A. I'm not familiar with that.

22 Q. I forgot my glasses. Excuse me.

23 And was it your testimony yesterday that
24 you watched the front of the apartment building?

25 A. Correct.

1 Q. And was it also your testimony yesterday
2 that the description you broadcast for possible suspect
3 came from his mother?

4 A. Yes.

5 Q. And was it also your testimony yesterday
6 that you were at the house for approximately 15 minutes?

7 A. Approximately, yes.

8 MS. ZUCKER: Your Honor, at this point
9 I'd like to play the transmission from the radio
10 calls that were recorded from that time period.

11 THE COURT: Any objection?

12 MR. ANDERSON: I haven't heard them, and
13 I don't know that they have been properly
14 identified, but I'm not going to object to them.

15 THE COURT: Have you got something to
16 play them on?

17 MS. ZUCKER: Some of the pages have
18 previously been identified as Defendant's Exhibit
19 Number 4.

20 Your Honor, just as a technicality,
21 there's some time period in here where there's
22 just a recording of the time, that just gives the
23 10 second increments.

24 THE COURT: Okay.

25 MS. ZUCKER: Judge, do you want this

1 played in its entirety or can I skip around?

2 THE COURT: First off I believe that when
3 you're going to play a tape, you play it with the
4 prosecutor before we get the jury in here. It's
5 your case. You play the tape, what you want to
6 play.

7 (Tape playing.)

8 (Tape turned over.)

9 THE COURT: Ms. Zucker, do you need some
10 time to find something?

11 MS. ZUCKER: About 30 seconds.

12 THE COURT: 30 seconds. We'll wait.
13 If you need more than that, just let us know.

14 (Tape playing.)

15 THE COURT: Turn it up.

16 All right, Ms. Zucker. Stop the tape,
17 will you?

18 (Tape playing.)

19 THE COURT: Stop it.

20 (Tape stopped.)

21 THE COURT: Can I see counsel in chambers
22 real quick?

23 (Discussion in chambers off the record.)

24 THE COURT: All right. Do you have any
25 more questions of the Officer at this time?

1 MS. ZUCKER: No, Your Honor. If I can
2 take a minute I'll advance this to a different
3 point.

4 (Tape playing.)

5 (Tape stopped.)

6 BY MS. ZUCKER:

7 Q. You said that you made the report at 3:38
8 and that you were with the car owner on Fulton?

9 A. That's correct.

10 (Tape playing.)

11 MS. ZUCKER: Just one minute.

12 (Tape turned over.)

13 BY MS. ZUCKER:

14 Q. The description of possible suspect,
15 Dexter Parker, that you gave over the radio, was not of an
16 18 or 20 year old; is that correct?

17 A. I believe he's 15.

18 Q. One other location we're going to hear.

19 (Tape playing.)

20 (Ends tape.)

21 BY MS. ZUCKER:

22 Q. What did he say?

23 A. I believe he said 4:18.

24 Q. What time did you get there?

25 A. I don't remember.

1 Q. About 3:38?

- 2 A. Something like that.

3 Q. So you were actually at the house for
4 about 45 minutes?

5 A. Something like 40 or 45.

6 Q. And during that entire time, you stayed
7 in front of the house?

8 A. Either at the door or out by our vehicle.

9 MS. ZUCKER: I have no further questions.

10 THE COURT: Anything else?

11 MR. ANDERSON: No.

12 THE COURT: Officer, thank you very much.

13 You're free to go.

14 (Witness excused.)

15 THE COURT: State's next witness.

16 MR. ANDERSON: State will call Officer

17 Bailey.

18 DAVID BAILEY

19 being first duly sworn, was examined and testified as
20 follows:

21 THE COURT: Pull that microphone up to
22 you a little bit. Right there. Even closer.

23 State your name and spell your last name,
24 please.

25 THE WITNESS: David Bailey, B-a-i-l-e-y.

1 THE COURT: Go ahead, Mr. Anderson.

2 MR. ANDERSON: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. ANDERSON:

5 Q. Mr. Bailey, how are you employed?

6 A. I work for the City of Cincinnati Police
7 Division assigned to District 2.

8 Q. Were you working for Cincinnati Police
9 back on October 17, 1998?

10 A. Yes, sir, I was.

11 Q. On that date did you have an occasion to
12 hear a radio call concerning a vehicle and a license plate
13 number?

14 A. Yes, sir.

15 Q. Why don't you tell us a little bit about
16 how you became aware of the vehicle and the license plate
17 and what you did as a result of that.

18 A. Okay. As I stated before, I'm assigned
19 to District 2, which is the east side of Cincinnati.
20 District 1, our downtown area, had a shooting, apparently
21 two victims were shot in the Over-The-Rhine area.

22 District 1 received the call. They began
23 their investigation and initiated a broadcast of possible
24 suspects and vehicles connected with the shooting.

25 Q. What was the description of the vehicle

1 that you heard?

2 A. As I recall it, a description was put
3 out, it was a small brown vehicle, possibly a Honda Accord
4 with an Ohio registration. Dispatchers ran the plate that
5 was given apparently from witnesses on the scene. The
6 plate came back to a Fulton Street address which is East
7 Walnut Hills by Eden Park.

8 Q. Okay.

9 A. They gave a description of a possible
10 suspect described as what I would call a male black with a
11 baseball cap, that he got in his vehicle and fled the
12 scene.

13 The vehicle was possibly last seen in the
14 Stark Street area off Central Parkway. I believed that
15 the car was probably going to come up McMillan Street. If
16 it was going to return home to Fulton Street, it would
17 pass by the Peebles Corner area.

18 Q. You were basically doing some guesswork
19 as far as where you thought the vehicle might be traveling
20 in order to get back to the registered owner?

21 A. Absolutely. I was thinking he would come
22 that way, and I just pulled the cruiser down on Gilbert
23 and McMillan and waited for a while.

24 Q. You were at Gilbert and McMillan?

25 A. I was sitting on Gilbert facing

1 southbound just north of McMillan.

2 Q. Were you in a marked vehicle and in
3 uniform?

4 A. Yes, sir.

5 Q. What happened when you were on Gilbert
6 Avenue looking for the possible car?

7 A. As I said, and you said, it was just
8 guesswork. I believed he was going to be coming up
9 McMillan; however, there was a car approaching from my
10 rear southbound on Gilbert. Looking back in my mirror, it
11 appeared to resemble a Honda Accord, so I took notice.
12 And I was at the light. The car pulled up beside me.

13 Q. The car pulled up beside you?

14 A. Right.

15 Q. Did it stop?

16 A. Right. There was a stop light. They had
17 a red light there, and I was sitting adjacent to him. I
18 looked over, saw the individual operating the vehicle.

19 Q. Do you see the individual that was
20 operating the vehicle in court today?

21 A. Yes, sir.

22 Q. Please point to him and describe what
23 he's wearing.

24 A. He's seated behind this table over here,
25 with a dark suit, a red shirt, red tie.

1 MR. ANDERSON: Your Honor, let the record
2 reflect identification of the defendant, Fredrick
3 Hall.

4 THE COURT: The record will reflect
5 identification of the defendant by the witness.

6 Q. Officer, how long of an opportunity did
7 you have to observe the defendant as he pulled up beside
8 you and stopped his car?

9 A. Well, it was just briefly. It was
10 seconds. He pulled past me. He looked at me, and then as
11 the light turned green he sped off. I was able to take a
12 look at the tag, the plate, and it did indeed match what
13 was given out in the description of the incident.

14 Q. Did you get a real good look at the
15 driver of the vehicle?

16 A. Right. As I said, he pulled up adjacent
17 to me and looked at me and then what happened was we
18 became involved in a vehicle pursuit.

19 Q. Is there any question that this defendant
20 you just identified, Fredrick Hall, was the individual
21 driving that Honda Accord?

22 A. He was.

23 Q. What happened when the light turned
24 green?

25 A. When his light turned green, he began to

1 speed away. I activated my emergency lights and siren.

2 Q. Attempting to pull him over?

3 A. Wanting him to pull over. As I said, he
4 did speed away, I would guess at a speed in excess of 60
5 miles an hour.

6 Q. What particular road were you traveling
7 on at that time?

8 A. He proceeded through the light southbound
9 on Gilbert Avenue.

10 Q. What's the speed limit on Gilbert Avenue
11 at that location?

12 A. As best I recall I believe that's a 35
13 through there, it's a posted 35.

14 Q. Okay.

15 A. A pursuit took place, and I do not know
16 all the routes we took, but this pursuit was contained in
17 the Eden Park, Walnut Hills area, Nassau, Fulton, Windsor
18 Street areas, like I said, even sometimes through Eden
19 Park, we went through there. The pursuit went on for some
20 time.

21 Q. How long did the pursuit go on?

22 A. Possibly several minutes, several minutes
23 chase through those streets.

24 Q. What kinds of speeds were you operating
25 your vehicle at?

1 A. As I said, anywhere from 60 and as we
2 went back northbound on Gilbert sometimes 80 mile an hour.
3 He was pulling away from my cruiser. The cruiser won't go
4 that fast.

5 Q. During this chase, were there any stop
6 signs, stop lights, or anything else that a driver would
7 tend to yield to?

8 A. Throughout this chase there was numerous
9 stop signs. I mean there's lots of cross streets by the
10 park and Nassau and Fulton, and all the streets have stop
11 signs.

12 Q. Okay.

13 A. Which he disregarded all of them
14 virtually.

15 Q. Just sped through them and run stop
16 signs, stop lights?

17 A. He continued through all the stop signs,
18 and of course, I had to stop. It's late in the evening so
19 I had to stop for a lot of those stop signs.

20 Q. Was there other traffic out at the time?

21 A. Right. There was still people coming
22 home from being out that night. There was a few times I
23 had to stop for traffic to let them through during this
24 pursuit.

25 Q. At some point did you lose visual contact

1 with the vehicle that the defendant was operating.

2 A. I did, and it was down by the entrance to
3 Eden Park where Kemper goes down to Columbia Parkway.

4 As I said, I'd stopped for traffic a few
5 times. One of those times I did have to stop and let
6 traffic through, and I lost sight of the vehicle. I saw
7 taillights proceed down Kemper towards Columbia Parkway.
8 I was guessing it could be him. As I approached that
9 vehicle, it wasn't the car. So at that point I had lost
10 him in the pursuit.

11 Q. During the course of this chase at 60 to
12 80 miles an hour, running stop signs and things like that,
13 were the public in danger at that time?

14 A. Well, like I said, very much so. There
15 was a lot of people driving home at that time of the
16 morning. There were people who had been out.

17 There was still people driving through
18 those areas so there was traffic, people at the
19 intersections trying to get through.

20 As I said, I had to negotiate around
21 several cars trying to get through. So it was a hazardous
22 situation.

23 Q. Now, you indicated that you saw some stop
24 lights that you believed may be the vehicle, and you went
25 to that vehicle, and it was not the vehicle?

1 A. Right. That vehicle was approaching
2 Columbia Parkway from Kemper.

3 Q. So you lost the vehicle at that point.
4 When did you next come into contact with the vehicle that
5 you had been chasing?

6 A. A very short time after I advised that
7 I'd lost the vehicle somewhere in the Eden Park area, a
8 District 4 car came on and indicated that they had located
9 the car in the 1000 block of Windsor Avenue, which is just
10 adjacent to Eden Park.

11 Q. So at that point, having located the car
12 on Windsor Avenue, what was the length of time between
13 when you lost visual contact with the vehicle that he was
14 driving and the time that the radio run came on indicating
15 that the police had found the vehicle on Windsor Avenue?

16 A. Well, this was only a period I would say
17 from 30, 40 seconds to a minute.

18 Q. So approximately a minute after you had
19 lost the vehicle, other police officers had found the
20 vehicle parked in a stationary position?

21 A. Right. They advised me they had the car.

22 Q. Did you respond to the scene at that
23 time?

24 A. Right I made it to the scene within
25 another 20, 30 seconds.

1 Q. What did you do when you got to the
2 scene?

3 A. As I pulled up on the scene, they had
4 brought the driver out of one of the front yards and
5 brought him out to one of the police cruisers parked on
6 Windsor Avenue.

7 Q. So at the time that you arrived on the
8 scene, the defendant was already in custody; is that
9 correct?

10 A. Yes, sir.

11 Q. Other officers had found him in the front
12 yard or behind some bushes or something and brought him
13 out?

14 A. Right.

15 MR. RADER: Objection, Your Honor,
16 leading.

17 THE COURT: Sustained.

18 A. He was in the front yard area. There
19 were some bushes there that he had dug behind.

20 MR. RADER: Objection, Your Honor, that's
21 hearsay.

22 THE WITNESS: He was located in the front
23 yard as I walked up.

24 THE COURT: Hold on. Let's start over
25 again. Sustained. Ask a new question.

1 Q. Officer Bailey, is there any question
2 that the person that the police had in custody at that
3 time, at that location, was the same individual driving
4 the car?

5 A. He was the same individual driving the
6 car.

7 Q. And who was that?

8 A. Mr. Hall.

9 Q. The defendant?

10 A. Right.

11 Q. Sir, I'd like to hand you what's been
12 marked as Exhibits 2, 3, 4, 5, and 6, have you take a look
13 at those. Can you identify those particular photos?

14 A. This is the Honda Accord that Mr. Hall
15 was operating.

16 THE COURT: What exhibit do you have in
17 your hand?

18 THE WITNESS: I'm referring to --

19 THE COURT: Just refer to them by number
20 if you can.

21 THE WITNESS: You want me to refer to all
22 the exhibits?

23 THE COURT: Well, answer his questions.

24 THE WITNESS: Okay. I will.

25 A. Exhibits 2, 3, 5, and 6 are the exterior

1 of Mr. Hall's vehicle. That was the vehicle I was in fact
2 chasing through Walnut Hills. Exhibit 4 is the interior
3 of that vehicle, of one of the seats.

4 Q. At the time that you observed the
5 defendant driving that Honda Accord, was there anybody
6 else in the vehicle?

7 A. No, sir. He was the only person in the
8 vehicle.

9 Q. Once the car was located on Windsor
10 Avenue and the defendant was in custody, did you do
11 anything else?

12 A. Basically, he was administered his rights
13 and --

14 MR. RADER: Objection, Your Honor, unless
15 there's some indication whether or not he did it
16 or saw it.

17 THE COURT: Overruled. Establish a
18 little more foundation.

19 Q. Did you have any further contact with the
20 defendant after he was taken into custody?

21 A. I talked to Mr. Hall about the driving,
22 why he fled.

23 Q. Were you present when Mr. Hall was
24 advised of his constitutional rights?

25 A. I don't recall if I was there or not.

1 Q. Did he make any statements to you
2 concerning the operation of the motor vehicle?

3 A. He didn't make any statements about the
4 operation of the vehicle. No, he didn't really say
5 anything.

6 Q. Did he make any statements to you about
7 operating the vehicle or anything else?

8 A. No.

9 Q. Did you have any further contact with the
10 defendant after that?

11 A. No.

12 Q. Did you have any further contact with the
13 vehicle after that?

14 A. No.

15 MR. ANDERSON: Thank you, Judge. I have
16 no further questions.

17 THE COURT: Any questions?

18 CROSS-EXAMINATION

19 BY MS. ZUCKER:

20 Q. Good morning, Officer Bailey.

21 A. Good morning.

22 Q. I'm Liz Zucker.

23 Was it your testimony that you were
24 parked on Gilbert right before the intersection of
25 McMillan?

1 A. Yes.

2 Q. And where exactly were you? There's no
3 map.

4 A. Oh, I thought there was a map on there.
5 As I said, the cruiser was southbound on Gilbert just
6 north of McMillan Street.

7 Q. Is that right where the bank is?

8 A. Yeah, there is a bank there. But it
9 would have been on the bank side; not the pawn shop side
10 but the bank side.

11 Q. On the bank side southbound?

12 A. Yes.

13 Q. That's a six lane road, isn't it?

14 A. I believe so.

15 Q. And do you remember testifying in this
16 courtroom on April 13?

17 A. Yes, ma'am.

18 Q. I'll refer you to your testimony
19 -- there's no page number -- Line 10. Let's start with
20 Line 8. Can you read the question and the answer?

21 A. Line 8?

22 Q. Uh-huh.

23 A. Line 8 says --

24 MR. ANDERSON: Judge, I'm going to
25 object.

1 THE COURT: I agree. Sustained.

2 You can ask him to review it.

3 Q. Please review Line 8 through Line 20.

4 THE COURT: Officer, when you've had a
5 chance to review it, let us know.

6 THE WITNESS: Okay, I've reviewed the
7 testimony.

8 THE COURT: Next question.

9 Q. Does that refresh your recollection?

10 A. It does.

11 Q. And did Mr. Hall have a stop light at the
12 time?

13 A. As he approached the intersection, the
14 light was red, but he was able to stop and then the light
15 turned green so then he proceeded through. But he was
16 able to stop adjacent to where I was and as soon as his
17 light turned he proceeded from the intersection at a high
18 rate of speed. So it was a matter of a second and then
19 the light changed over to cycle to green.

20 MS. ZUCKER: Your Honor, can I have him
21 read his testimony from that day?

22 THE COURT: No. You want him to read it
23 again?

24 MS. ZUCKER: No, I'd like him to read it
25 out loud.

1 THE COURT: The proper way to do it is
2 for you to read it and ask him if that was the
3 question that was asked and that's the answer you
4 gave.

5 Q. Do you recall being asked: "At that
6 point, did you see who was operating the car?"

7 You answered: "I did. I was looking
8 out the mirror trying to see the traffic behind me as
9 well as looking in front of me. I saw this car come up.
10 I could tell it was a Honda that matched the description.
11 Mr. Hall passed to the left."

12 A. Right.

13 Q. And then you were asked: "Mr. Hall the
14 one driving that car?"

15 You answered: "Right. And he, as he
16 passed me, he looked at me. I looked back. He proceeded
17 through the intersection. He had the green light. I
18 pulled away from the curb. At that point Mr. Hall began
19 to flee in his Honda."

20 Is that your testimony?

21 A. Right.

22 Q. And at that time you didn't mention
23 anything of Mr. Hall slowing down or anything, did you?

24 A. Like I said, he passed to my left. And I
25 was behind the intersection. There was still some traffic

1 there. But as he approached, he had a red, and then the
2 green light cycled so he went on through. That's when he
3 took off at a high rate of speed.

4 Q. Was he traveling -- going through the
5 intersection, was he traveling at a normal rate of speed?

6 A. As he approached, yeah. But like I say
7 he slowed down for the light.

8 Q. In that area it's approximately 35 miles
9 an hour?

10 A. I believe it's 35.

11 Q. If somebody were traveling 35 miles an
12 hour, do you know approximately how many feet that would
13 be per second?

14 MR. ANDERSON: Objection.

15 THE COURT: Overruled, if he knows.

16 A. I don't, I don't know.

17 Q. And how long -- how much width did you
18 actually see Mr. Hall face to face?

19 A. Five to seven feet away from me.

20 Q. He was five to seven feet away from you.
21 And actually he was in your visibility for maybe three
22 feet in the window?

23 A. Right. That's about right I guess.

24 Q. Did you call in on your radio at the
25 beginning once you noticed the Honda?

1 A. I did.

2 Q. And that would be within the radio call
3 format?

4 A. It should be.

5 Q. And did you review the radio
6 transmissions earlier today?

7 THE COURT: What are you referring to?

8 A. Are you talking about the big boards?

9 Q. Yes.

10 A. I looked over them.

11 Q. And are you familiar with what these are?

12 A. Right. I don't know how much of the
13 radio incidents there are. I don't know if it's a summary
14 of the whole radio incident. I don't know what you have
15 there.

16 Q. And you had the opportunity to look at
17 them?

18 A. Right.

19 MS. ZUCKER: I'll marked these exhibits
20 as defense exhibits.

21 (Defendant's Exhibits 7 and 8 marked for
22 identification.)

23 THE COURT: Just refer to them by number
24 when you refer to them.

25 Q. Looking at this do you find the

1 transmission that you made on Gilbert Avenue?

2 THE COURT: Officer, you can get up and
3 take a look at those if you like.

4 THE WITNESS: I can but --

5 THE COURT: It's up to you.

6 (Witness at board.)

7 A. This doesn't have --

8 THE COURT: You're referring to
9 Exhibit 8?

10 THE WITNESS: Exhibits 7 and 8 will not
11 show my exact vehicle pursuit. That will be under
12 a different, probably be under my car number and
13 district.

14 So you would need to actually pull up my
15 entries for car 2400 to find out what I was doing
16 prior.

17 What will happen is we'll have several
18 things going on at one time.. It may be the same
19 thing, may be connected the way they categorize
20 it.

21 We got three different districts here.
22 That's why you don't see a lot of what happened on
23 there.

24 Q. You can have a seat, again, Officer.

25 (Witness resumes stand.)

1 THE COURT: Next question.

2 MS. ZUCKER: I'd like to mark this as
3 Defendant's Exhibit Number 9.

4 (Defendant's Exhibit 9 marked for
5 identification.)

6 THE COURT: Show it to the prosecutor.

7 Q. I'm showing you a copy of the subpoena
8 that was issued to the keeper of the records. Can you
9 read what was requested on those records?

10 MR. ANDERSON: I'm going to object.

11 THE COURT: Sustained.

12 Q. And it was requesting all radio
13 transmissions?

14 MR. ANDERSON: Objection.

15 THE COURT: Sustained. He's not the
16 keeper of the records, or at least not been
17 established as such.

18 MS. ZUCKER: Can I establish whether that
19 information should be available?

20 THE COURT: You've not established that
21 he's the witness that would know that.

22 MS. ZUCKER: Okay. No further questions,
23 Your Honor.

24 THE COURT: Thank you. Anything else,
25 Mr. Anderson?

1 MR. ANDERSON: No.

2 THE COURT: Officer Bailey, thank you
3 very much for your testimony. You're free to
4 leave now.

5 (Witness excused.)

6 THE COURT: State's next witness?

7 MR. ANDERSON: The State will call
8 Officer Fromhold.

9 MR. RADER: Your Honor, may the witness,
10 Officer Bailey be subject to recall?

11 THE COURT: They all are.

12 MR. RADER: Thank you.

13 STEPHEN FROMHOLD

14 being first duly sworn, was examined and testified as
15 follows:

16 THE COURT: State your name and spell
17 your last name.

18 THE WITNESS: Police Officer Stephen
19 Fromhold, F-r-o-m-h-o-l-d.

20 THE COURT: Thank you.

21 Mr. Anderson?

22 DIRECT EXAMINATION

23 BY MR. ANDERSON:

24 Q. Officer Fromhold, you're employed by the
25 City of Cincinnati?

1 A. Yes, sir.

2 Q. Were you employed by the City of
3 Cincinnati back on October 17, 1998?

4 A. Yes, sir.

5 Q. On that date did you have an occasion to
6 respond to the Republic Street area?

7 A. Yes, sir.

8 Q. Please tell the ladies and gentlemen of
9 the jury why you responded to that location and what you
10 did.

11 A. We responded to the area of the report of
12 a shooting at Thirteenth and Republic.

13 Q. What did you do when you arrived at the
14 scene?

15 A. We found a subject lying on the southeast
16 corner that had sustained a gunshot wound.

17 Q. Who was that?

18 A. I believe his name was Johann Hart.

19 Q. So Mr. Hart was actually still present at
20 the scene when you responded?

21 A. He was in the prone position being tended
22 to by other citizens.

23 Q. Were the paramedics there yet?

24 A. No.

25 Q. What did you do as a result of Mr. Hart's

1. condition?

2. A. We attempted to converse with him. We
3. already were aware that medical was responding and fire
4. division. We also learned that there was a second
5. subject had been shot that ran east on Thirteenth and
6. south on Vine and was over there near the Warehouse Bar
7. where another officer was working a bar detail, and was
8. requesting fire also for his gunshot wounds.

9. Q. That would be Kevin Davis?

10. A. That's correct.

11. Q. What did you do when you got to the scene
12. to ascertain that Mr. Hart had been shot, Mr. Davis had
13. been shot; what did you do specifically?

14. A. Our supervisors were enroute. One of
15. them pulled up shortly thereafter and we roped off the
16. area of Thirteenth and Republic with crime scene tape to
17. preserve it.

18. We ascertained what direction the
19. investigation was going to go in in relationship to the
20. extent of the injuries to both Mr. Davis and Mr. Hart.

21. Obviously, if it was going to be a
22. homicide, we would have called CIS personnel and they
23. would have picked up the investigation of the witnesses.

24. There was a lot of lag time, so to speak,
25. while we were waiting for fire division personnel to

1 assess the extent of the gunshot injuries, to see which
2 way the direction of the investigation was going to go.

3 The burden of the investigation is
4 dictated on the severity of the gunshot wounds. If it
5 appears that the subjects are going to die, obviously
6 homicide will be called out. We have crime scene techs
7 come to the scene.

8 If it doesn't appear that either
9 subject's gunshots are life threatening, it may stay at
10 the district level. But due to the fact that there was
11 multiple victims, it could dictate a recall of an
12 investigator from home. We don't have investigators
13 working the evening hours, 3:00 AM, 3:15 AM.

14 Q. So basically, did you see and try to
15 gauge the severity of the injuries to the victims to
16 decide whether or not to call homicide for them to come
17 and investigate or whether this investigation will stay
18 within your district?

19 A. That's correct.

20 Q. In this particular case when you arrived
21 on the scene, did you have a chance to observe Mr. Davis's
22 injuries?

23 A. No, I did not. I stayed right at
24 Thirteenth and Republic. I was apprised that his injuries
25 almost immediately were not life threatening.

1 Q. What about Mr. Hart?

2 A. There was some concern about his
3 initially because it was in the shoulder and neck area.

4 Q. Was Mr. Hart conscious when you arrived
5 at the scene?

6 A. Yes, he was.

7 Q. As a result of that, what did you do in
8 the course of your investigation?

9 A. Well, it slowed everything down. We held
10 the crime scene, waited for fire personnel to transport
11 him, and send an officer to the hospital to get a more
12 accurate diagnosis of his injuries, the extent and if it
13 was life threatening or not.

14 Q. So basically Mr. Hart was transported to
15 the hospital, they were making a medical diagnosis of his
16 potential condition, and at that point the decision would
17 be made whether or not it would stay within the district
18 or homicide would be called?

19 A. That's correct.

20 Q. Did it slow things down a little bit?

21 A. A lot.

22 Q. What happened once you determined that
23 Mr. Hart's injuries were probably not life threatening, so
24 to speak?

25 A. District personnel supervisors recalled

1 Detective Huffman and I believe his supervisor, also.

2 Q. What was the time line between the time
3 you responded to the scene and the time that a detective
4 from the district was called out to investigate?

5 A. I believe the dispatch on it was around
6 3:15, 3:20 in the morning.

7 Q. That would have been the time of the
8 shooting?

9 A. Yes, and we were there within a minute of
10 the shooting. We were at Twelfth and Republic when the
11 dispatch came out. We were on bikes and we were only a
12 block away, so we went the wrong way up Republic on our
13 bicycles.

14 I recall getting off close to on time,
15 which my shift would terminate at 4:00 AM. So it was
16 close to 4:00 AM before Officer Huffman actually got to
17 the district because I touched base with him on the
18 preliminary investigation, what we had done, and what he
19 needed to pick up on.

20 Q. As a result of cordoning off crime scene,
21 putting tape around it, did you conduct a survey of the
22 scene?

23 A. Yes, and I talked to a couple of
24 witnesses, also.

25 Q. Okay. Officer Fromhold, I'll hand you

1 what's been marked as State's Exhibits 11, 12, 13, and 14;
2 if you could take a look at those individually and
3 identify them by number. Can you identify what those
4 exhibits are, sir?

5 A. State's Exhibit Number 11 is a white
6 arrow which was drawn by myself on the asphalt pointing to
7 a shell casing that we had located almost immediately.

8 Q. Okay. Now, you've indicated there is a
9 photograph there. State's Exhibits 11, 12, 13, and 14 are
10 all photographs. Were those photographs taken by you?

11 A. They were taken at my direction by
12 Officer Ball. He came and I pointed out what we needed to
13 photograph.

14 Q. So those photographs were taken at your
15 direction. Do they all truly and accurately depict the
16 scene as it existed on October 17, 1998?

17 A. Yes.

18 Q. What about State's Exhibit Number 12?

19 A. After we'd been there a while, to be
20 quite candid with you, we were kind of bored waiting for
21 somebody to make a decision. We had talked to both of the
22 witnesses. We started scouring the area a little bit more
23 thoroughly, hoping to find more shell casings because
24 there was an indication of four or five shots fired.

25 And I started kicking garbage in the curb

1 area and I kicked over a brown paper bag and a Cheetos bag
2 and some other trash and located another shell casing. It
3 appeared much -- appeared to be weathered, tarnished. But
4 I marked an arrow, put an arrow to it in case it was
5 involved. It's unusual to find shell casings in that
6 area.

7 Q. That shell casing was also recovered from
8 the scene, correct?

9 A. Yes.

10 Q. What about State's Exhibit 13?

11 A. 13 is the blood from Mr. Hart in the
12 street where he was lying right on the curb area.

13 Q. What about State's Exhibit 14?

14 A. That's more of a distance shot of the
15 area where he was lying after they removed him from the
16 scene.

17 Q. Those were all taken under your
18 direction?

19 A. Yes.

20 Q. Officer Fromhold, I'll hand you what's
21 been marked as State's Exhibit Number 10 for purposes of
22 identification. Can you identify what that particular
23 exhibit is, sir?

24 A. Three .380 shell casings, .380 caliber
25 shell casings.

1 Q. Now, are you aware of where those shell
2 casings were recovered?

3 A. Two were from the scene and one I believe
4 was recovered by Detective Huffman from the vehicle that I
5 had broadcast.

6 Q. Now, are you aware of whether or not
7 those bullets were in fact submitted for analysis at the
8 Hamilton County Coroner's Laboratory?

9 A. I'm aware of a report of analysis, yes.

10 Q. Two of those shell casings were recovered
11 by you and those are the two shell casings that are
12 contained in photographs or State's Exhibits 11 and 12; is
13 that correct?

14 A. Correct.

15 Q. You indicated that one of the shell
16 casings, particularly the shell casing contained in
17 State's Exhibit Number 12, appears to be worn and things
18 like that?

19 A. Weathered, tarnished much more, wasn't
20 shiny. It was under some debris.

21 Q. How far away from the initial shell
22 casing that you found was the shell casing in State's
23 Exhibit Number 12?

24 A. It was, the first one we found was south
25 of the victim, probably 25 feet. The other one was more

1 in an easterly direction.

2 Q. How far away from each other,
3 approximately?

4 A. Probably about 30, 35 feet.

5 MR. ANDERSON: Judge, I have no further
6 questions.

7 THE COURT: Cross-examination?

8 CROSS-EXAMINATION

9 BY MR. RADER:

10 Q. - Good morning, Officer Fromhold.

11 A. Good morning.

12 Q. How are you today?

13 A. Fine, thank you.

14 Q. My name is Jim Rader, one of the counsel
15 for the defendant in this case. Good to see you here this
16 morning --

17 A. Thank you.

18 Q. -- to shed some light on this situation
19 for us.

20 I understand you arrived there almost
21 immediately?

22 A. That's correct.

23 Q. And your testimony was that Detective
24 Huffman didn't get there till around 4:00?

25 A. He was at the district around then

1 approximately.

2 Q. At the district or on the scene?

3 A. I don't know that he even went to the
4 scene, to be quite candid with you. I met with him in the
5 district. There was another officer who took my place at
6 the scene so we could go in and touch base with him.

7 Q. Officer, being on the scene, you know --
8 I've studied this situation fairly closely, and I
9 compliment the department on the fact that I think this
10 license number was out on the radio within about three
11 minutes of the first 911 call at 3:18; do you recall that?

12 A. Yes.

13 Q. Quickly, very quickly?

14 A. Yes.

15 Q. And at some point not long after that,
16 there was a description broadcast of a male black, light
17 complected, clean shaven, 20 or 21 years old. Do you
18 remember that description being broadcast?

19 A. No. It may have come from the --
20 generated from the vehicle pursuit. I don't recall that.
21 I recall putting a description out of a male black with a
22 dark cap, and that age range.

23 Q. Okay. You're with me. Male black, how
24 old?

25 A. I believe it was like in his twenties is

1 what I stated.

2 Q. And male black in his twenties, baseball
3 cap?

4 A. That's correct.

5 Q. You don't remember light complected?

6 A. I believe I stated on the radio dark cap.
7 That's about the description. I was just ecstatic that we
8 got a good license number from a witness.

9 Q. You don't remember clean shaven?

10 A. No, I don't. I reviewed the reports
11 yesterday, and I was just going off what we wrote on the
12 report. I don't recall saying that without listening to
13 the tape.

14 Q. But if they came out on the radio, as
15 I've indicated, as clean shaven, roughly 20 years old,
16 light complected black gentleman, baseball cap, then you
17 would have been the source of that information?

18 A. I don't know what transpired in the
19 District 2 pursuit of a vehicle that was allegedly
20 involved in it, if there was a bail out, and that
21 description was generated by a bail out of the vehicle. I
22 wasn't on that area. That was a different channel. I
23 picked up part of the pursuit on my radio. But my
24 generating that information, my generation of it was what
25 I explained.

1 Q. Excuse me, didn't mean to interrupt but
2 as you're testifying here today, it refreshed your
3 recollection reading your report the other day?

4 A. Certainly. This happened in October.

5 Q. I understand that. This radio
6 transmission I've been able to listen to also indicates
7 that there were three people in the car?

8 A. That's what my report reflected, yes.

9 Q. That was your initial -- put out over
10 your radio?

11 A. That's correct.

12 Q. Do you recall whether there were -- what
13 their position was in the car?

14 A. I don't recall where the rear person was,
15 but I do recall them explaining to me that it was one of
16 the two people in the front, one in the back. I don't
17 recall where the person in the back was seated, what side
18 of the vehicle.

19 Q. Now, this information that you were able
20 to get was not from either one of the victims?

21 A. No, that's correct.

22 Q. Can you shed some light on who this
23 information came from? Do you recall their names or --

24 A. It's in the addendum to the report, their
25 names. The one gentleman was tending to Johann, trying to

1 -- telling him he was going to be okay, hang in there.

2 As soon as I walked up, I got off my bike
3 and walked up and he mumbled out a license number. I
4 said, what? He said, this is the car that's involved. He
5 said, ADU 6730.

6 Q. Who said that to you?

7 A. The gentleman that was tending to Mr.
8 Hart. And he says it's a beige Honda or Nissan, I believe
9 was his statement to me. And he kept repeating the
10 license plate to reinforce it in his mind and make sure I
11 got it. I put that much out almost immediately because he
12 seemed pretty confident that he had the license plate
13 down.

14 Q. Did he tell you how many people were in
15 the car?

16 A. Later, once we got Hart stabilized, his
17 version was pretty consistent with the female's version.
18 There were some discrepancies.

19 Q. How many people did he tell you?

20 A. He told me there were three and one
21 jumped out of the car.

22 Q. Can you describe this witness for us?

23 A. Male black, mid thirties, probably one of
24 our street people that's drug dependent.

25 Q. Did you get his name?

1 A. Oh, yeah.

2 Q. And address?

3 A. Oh, yeah.

4 Q. And the second witness, I understand that
5 that was a female?

6 A. Yes.

7 Q. Can you tell me generally what she looked
8 like?

9 A. 20, 30 year old female black. Lived on
10 1400 block of Race. Her name is in the addendum, also.

11 Q. Let's go back to the man for a moment, if
12 we could, please. In your experience as a police officer,
13 did this person seem to you to be forthright and credible?

14 A. Well, the thing that impressed me most
15 about him, was he just kept repeating the license number.
16 So he had made, in my opinion, a cognizant desire to
17 remember that. He kept repeating it, repeating it,
18 repeating it, over and over. He probably said it six,
19 seven times.

20 And I wrote it down the second time he
21 said it. So I think he knew in his mind he had something
22 solid that could contribute to the investigation and he
23 didn't want to forget it.

24 Q. Sounds like an effort to remember it. He
25 didn't want to forget it?

1 A. Yes, in my opinion, that's how I
2 interpreted that.

3 Q. I understand.

4 MR. RADER: Excuse me for a moment, Your
5 Honor, will you please?

6 (Pause in proceedings.)

7 Q. Maybe I can refresh your memory a little
8 bit. Maybe you'll recognize -- the man, was his name
9 Jimmy Martin; does that ring a bell?

10 A. I believe so.

11 Q. Are you fairly confident?

12 A. I can look at the report. I don't have
13 it right in front of me.

14 Q. Do you have the report here?

15 A. I'm sure Detective Huffman has got it out
16 in the hall or the prosecutor probably has a copy of that.

17 MR. RADER: Your Honor, could the witness
18 ask Officer Huffman if he has those?

19 MR. ANDERSON: Judge, I'll address it in
20 a little bit.

21 Judge, if we can have a sidebar real
22 quick.

23 THE COURT: I think we need one.

24 Excuse us, ladies and gentlemen.

25 Stay right there, Officer.

1 THE WITNESS: Yes, sir.

2 (Discussion in chambers off the record.)

3 THE COURT: Thank you, ladies and
4 gentlemen.

5 Next question, Mr. Rader.

6 BY MR. RADER:

7 Q. Officer, do you recall that the lady that
8 we're talking about is Lolita Moore?

9 A. That rings a bell, yes.

10 Q. Okay. Can you indicate to us the nature
11 of the information that she gave you?

12 A. My recollection was, without looking at
13 the report, was she was on Thirteenth, I believe, west of
14 the crime scene, and saw the vehicle proceed past here,
15 start to make a turn, multiple gunshots rang out. She
16 said somebody exited the vehicle, went over to the fallen
17 victim -- the other subject, Mr. Davis, had ran -- and go
18 through his pockets and run back to the vehicle, go back
19 to the car and take off.

20 Q. Please go over that again, will you?

21 A. My recollection from what --

22 THE COURT: Wait a minute. He doesn't
23 have to go over it again. Next question.

24 Asked and answered.

25 Q. What you told me, and honestly there is

1 no trick questions here, what you told me sounded like a
2 drive-by shooting; is that right? That was the impression
3 that you got from Lolita Moore?

4 MR. ANDERSON: Objection.

5 THE COURT: Sustained. Next question.

6 You don't have to answer. Next question.

7 Q. Did Ms. Moore indicate to you how many
8 people were in the car?

9 A. I believe she said three.

10 Q. And she indicated that somebody got out
11 of the car?

12 A. She did.

13 Q. And did what?

14 MR. ANDERSON: Objection.

15 THE COURT: Sustained. Asked and
16 answered.

17 Q. Was it your understanding from her that
18 this car didn't stop?

19 MR. ANDERSON: Objection.

20 THE COURT: Sustained.

21 Q. Officer, you found these two .380
22 cartridge cases at the scene; is that right?

23 A. That's correct.

24 Q. Approximately 35 feet apart?

25 A. That's correct.

1 Q. Have you reviewed the criminalistics
2 report from the Coroner's Lab as to these casings?

3 A. I have.

4 Q. Your investigation led you to the
5 conclusion that these casings were fired from the same
6 gun?

7 MR. ANDERSON: Objection.

8 THE COURT: Sustained. He's not an
9 expert witness, or he's not been qualified as
10 such.

11 MR. RADER: May I have just a moment,
12 please, Your Honor?

13 THE COURT: Sure, take your time.

14 (Pause in proceedings.)

15 Q. Did Ms. Moore indicate to you that she
16 had seen the shooter?

17 A. I don't believe she gave me a very good
18 description. I don't think so. I don't believe so. She
19 saw the vehicle and somebody run from the vehicle and then
20 re-enter the vehicle. I don't believe so.

21 I think my description, the vague
22 description of -- the one that you referenced earlier was
23 a little off from what I thought I'd put out. Male black,
24 twenties, dark baseball cap, was generated from the male
25 subject, male witness, as the operator of the vehicle,

1 because that would have been the position he would have
2 the best view of, to my recollection.

3 Q. Did he tell you anything about the
4 proceedings of the vehicle?

5 A. Yes, he did.

6 Q. What did he tell you?

7 A. He was actually, according to him, on the
8 opposite corner of Johann and Mr. Davis. He was on the
9 northeast corner, and they were on the southeast corner.

10 He was facing northbound. The vehicle
11 came east and then turned south. And he didn't see the
12 vehicle initially. He heard the first gunshot, then
13 turned to see the vehicle driving by, somebody hanging out
14 the window shooting. And that's when he saw the rear of
15 the vehicle proceed southbound and made a mental note of
16 the license plate.

17 Q. In your experience as an officer -- how
18 long have you been an officer?

19 A. 20 years.

20 Q. You've seen a lot of things?

21 A. Yes, sir.

22 Q. And you were investigating this incident
23 at the time?

24 A. I was conducting a preliminary
25 investigation, yes, sir.

1 Q. I understand. You testified that you saw
2 these cartridge cases 35 feet apart?

3 A. Yes.

4 Q. And you know from your experience that
5 distance is hard to judge, but being a police officer,
6 you're aware of that, correct?

7 A. Yes, sir.

8 Q. Is your -- tell me how good your estimate
9 is. Are you sure within a foot or two?

10 MR. ANDERSON: Objection.

11 THE COURT: Sustained.

12 Q. Well, that was your testimony, right?

13 A. Yes, sir.

14 Q. And that's based on your 20 years of
15 experience with being careful about these things?

16 A. Yes, sir.

17 Q. I understand that. I appreciate that.

18 MR. RADER: Your Honor, this officer has
19 testified that he's been on the Cincinnati Police
20 Department 20 years. I would ask that he be
21 qualified as an expert.

22 THE COURT: Expert as to what?

23 MR. RADER: To the fact that these shell
24 casings were 35 feet apart.

25 THE COURT: That's ballistics. He's not

1 going to qualify as a ballistics expert. The mere
2 fact that someone is familiar with the operation
3 of guns and firearms, and maybe an expert in that
4 operation, does not make them a ballistics expert.

5 MR. RADER: My point is 35 feet --

6 THE COURT: The point is if you want to
7 make an argument we'll go back in chambers.

8 MR. RADER: Can we please, Your Honor?

9 THE COURT: Excuse us.

10 (Discussion in chambers off the record.)

11 THE COURT: Next question, if you have
12 one.

13 MR. RADER: Officer Fromhold, I
14 appreciate your being here. Thank you. No
15 further questions.

16 THE COURT: Anything further, Mr.
17 Anderson?

18 MR. ANDERSON: A few questions, Your
19 Honor.

20 REDIRECT EXAMINATION

21 BY MR. ANDERSON:

22 Q. Officer Fromhold, could you describe
23 Jimmy Martin to the jury?

24 A. Seemed to be a homeless person, somebody
25 you would see commonly in that area. Possibly drug

1 dependent. Thin male black. Mid thirties.

2 Q. Now, according to what you testified to
3 on cross-examination, he told you that he first became
4 aware of this car being there when he heard the first
5 gunshots; is that correct?

6 A. That's correct.

7 Q. So he didn't see anything prior to that?

8 A. No, he didn't.

9 Q. Did he give you an address?

10 A. A what?

11 Q. Did he give you an address?

12 A. He did.

13 Q. And that was 662 Ridge Acres?

14 A. Yes.

15 Q. What about Lolita Moore; can you give us
16 a description of her?

17 A. Female black, probably in her late
18 twenties, early thirties. Gave me an address on Race
19 Street. I believe it was one of the Hart Realty
20 buildings.

21 Q. How about 1527 Race Street?

22 A. Yes, sir.

23 Q. Can you describe her?

24 A. She was kind of well dressed actually for
25 the area. She didn't look like a street person. She

1 didn't look disheveled like the other gentleman did. She
2 surfaced later in the investigation, not initially.

3 She was there probably within, I think
4 maybe 20 minutes after we saw her standing over there, one
5 of them talked to her. She didn't seem real interested in
6 getting involved initially.

7 Q. So these are the two witnesses that you
8 talked to at the scene?

9 A. Right.

10 Q. Were there any other witnesses there that
11 you were aware of?

12 A. Not that could provide us any valuable
13 information for the investigation.

14 Q. Now, you've had experience investigating
15 gunshots and things of that nature; is that correct?

16 A. Yes, sir.

17 Q. Is it safe to say it can be somewhat
18 chaotic?

19 A. Absolutely.

20 Q. People seeing the same thing describe it
21 differently?

22 MR. RADER: Objection, Your Honor.

23 That's speculation.

24 THE COURT: Sustained.

25 Q. How far away did Ms. Moore indicate she

1 was when these gunshots rang out or when she saw the car?

2 A. She would have been a hundred, 150 feet.

3 Q. Away from the scene?

4 A. (Indicate yes.)

5 Q. 3:00 in the morning?

6 A. Right.

7 Q. Some street lights out there but it's
8 probably dark?

9 A. Dimly lit.

10 Q. A hundred to 150 feet away?

11 A. Yes.

12 MR. ANDERSON: Judge, I have nothing
13 further of this witness.

14 THE COURT: Any other questions for
15 Officer Fromhold, Mr. Rader?

16 MR. RADER: Yes, Your Honor.

17 RECROSS-EXAMINATION

18 BY MR. RADER:

19 Q. Officer, how long did you stay on the
20 scene?

21 A. I would imagine I was there, let's see --
22 occurred around I believe 3:19 in the morning. We were
23 there at 3:20. Probably close to an hour if not a little
24 less.

25 Q. So close to 4:20, 4:15 or 4:20?

1 A. I recall getting out of work a little
2 late that night. We usually get off at 4:00 AM. So it
3 was probably about an hour, 45 minutes to an hour.

4 Q. Did you leave to go home from the scene
5 or did you go back to the district?

6 A. We had to go back and turn our bicycles
7 in and touch base with Detective Huffman who was coming in
8 from home.

9 Q. Someone called in a description at 3:52
10 from the scene, the description of the driver; was that
11 you?

12 A. 3:52 from the scene.

13 Q. Yes.

14 A. I don't recall putting one out that late.
15 Most of my description was either written in the report,
16 if it developed later, because of what transpired in
17 District 2 in pursuit of the vehicle.

18 The investigation kind of took a twist,
19 so to speak.

20 MR. RADER: May I have just a moment,

21 Your Honor?

22 THE COURT: Sure.

23 (Pause in proceedings.)

1 RE CROSS-EXAMINATION

2 BY MS. ZUCKER:

3 Q. Officer, are you able to -- by reviewing
4 a --

5 MR. ANDERSON: Judge, I'm going to
6 object.

7 THE COURT: Yeah. Is this some new area
8 that we're getting into?

9 MS. ZUCKER: It's on the same line, Your
10 Honor.

11 THE COURT: All right. Ask your
12 question. Overruled.

13 Q. By reading a radio printout, can you tell
14 if you're the one who gave a description at a certain
15 time?

16 A. I may be able to. I didn't even see that
17 behind me.

18 THE COURT: Why don't you get up and go
19 take a look at it? It's no problem.

20 THE COURT: Ms. Zucker, just let him look
21 at it.

22 For the record, he's looking at
23 Defendant's Exhibits 7 and 8 which have been blown
24 up.

25 THE WITNESS: Most of this here is

1 generating an area that I wasn't in.

2 THE COURT: I believe with his hand
3 gesture, he referred to defense Exhibit 7.

4 Go ahead, Mr. Fromhold.

5 THE WITNESS: Most of this is radio
6 traffic that's going on back and forth from
7 dispatch to cars.

8 The only thing I can see here that would
9 be relevant to me would be this number three,
10 1483. I'm 1480; that's my partner.

11 She advised me that 1325 was going to
12 photograph and recover in our direction the stuff
13 that was marked on the photos. My description is
14 not on there, so I can't say that I did.

15 Q. Do you know who 1420 is?

16 A. 1420 was probably Sergeant Gabel that
17 night, her regular car number. She is 1420.

18 MS. ZUCKER: Thank you.

19 THE COURT: Anything else?

20 MS. ZUCKER: No, Your Honor.

21 THE COURT: Thank you, officer, very much
22 for your testimony. You're free to go at this
23 time.

24 (Witness excused.)

25 THE COURT: State's next witness?

1 MR. ANDERSON: We will call Officer
2 Neack.

3 DOUG NEACK
4 being first duly sworn, was examined and testified as
5 follows:

6 THE COURT: Officer, can you state your
7 name and spell your last name, please?

8 THE WITNESS: Doug Neack, N-e-a-c-k.

9 THE COURT: Pull that microphone over to
10 you just a little bit. Thank you.

11 Mr. Anderson?

12 DIRECT EXAMINATION

13 BY MR. ANDERSON:

14 Q. Sir, where do you work?

15 A. City of Cincinnati, Police Division,
16 District 1.

17 Q. And were you so employed back on October
18 17, 1998?

19 A. I was.

20 Q. Did you have an occasion to come into
21 contact with someone on that date now known to you as
22 Fredrick Hall?

23 A. I did.

24 Q. Do you see me him in court today?

25 A. Yes. It's the gentleman at the defense

1 table with the black suit and pink shirt and red tie.

2 Q. Officer Neack, where did you come in
3 contact with the defendant that day?

4 A. I believe it was up on Windsor.

5 Q. And why did you respond to that location?

6 A. We'd been looking for a particular car
7 and Lt. Bailey had located the vehicle up -- I believe it
8 was District 2.

9 Q. The vehicle that the police were looking
10 for was located, you responded to the scene. What did you
11 find when you got up on Windsor?

12 A. This gentleman was located up there, and
13 Lt. Bailey placed him in my vehicle.

14 Q. Okay.

15 A. I at that time read him his rights.

16 Q. What specific rights did you advise this
17 defendant of at that time?

18 A. I always remove my wallet and read the
19 rights verbatim from a rights card I carry in my wallet.

20 Q. What rights were those that you read to
21 him?

22 A. It's the Miranda warning as to your
23 rights. "You have the right to remain silent. Anything
24 you say can and will be used against you in a court of
25 law. You have a right to talk to a lawyer and to have him

1 present with you while you're being questioned. If you
2 cannot afford to hire a lawyer, one will be appointed to
3 represent you before any questioning if you wish.

4 "You can decide at any time to exercise
5 these rights and not answer any questions or make any
6 statements. Do you understand each of your rights?"

7 Q. You read those to the defendant?

8 A. I did.

9 Q. Did the defendant indicate to you that he
10 understood those rights?

11 A. He did when I asked him.

12 Q. What happened after you read the
13 defendant his rights? Did you talk to him about the
14 shooting or the police chase or operating a car or
15 anything else like that?

16 A. I didn't say a whole lot to him.
17 Basically, the statement he made was he was just out
18 buying shaving cream.

19 Q. He was out buying shaving cream. Did he
20 indicate whether or not he had been driving a car?

21 A. He didn't say a whole lot. I wasn't
22 asking a lot of questions at that point due to the ongoing
23 investigation.

24 Q. He told you he was out buying shaving
25 cream?

1 A. That's correct.

2 Q. At some point later, did you transport
3 the defendant to the district?

4 A. I did.

5 Q. And what happened when you got the
6 defendant back to the district?

7 A. I took him into District 1, and per
8 procedure, what we do at District 1 is I reread his rights
9 to him off a written form that we have in the district,
10 and went over the rights again.

11 Q. Sir, I'll hand you what's been marked as
12 State's Exhibit Number 1 for purposes of identification.
13 Can you identify what that particular exhibit is, sir?

14 A. That is the rights form from October 17
15 at 0615 in the morning, when I reread those rights.

16 Q. It's actually a photocopy of the rights
17 waiver?

18 A. That's correct.

19 Q. And again, did you advise the defendant
20 of the rights contained on that form?

21 A. I did.

22 Q. Did you read them verbatim like you did
23 with the card you just got out of your wallet?

24 A. That's correct.

25 Q. At that time did the defendant indicate

1 that he understood what those rights were?

2 A. He did.

3 Q. Your signature appears thereon?

4 A. Yes, it does.

5 Q. The signature of Officer Huffman appears
6 on there?

7 A. It does.

8 Q. Doesn't the signature of the defendant
9 appear on there?

10 A. No, it doesn't.

11 Q. Did he agree to sign that particular
12 document?

13 A. No, he refused.

14 Q. Even though he refused to sign that
15 document, did the defendant indicate to you that he
16 understood what his rights were?

17 A. Verbally, he did.

18 Q. Did he make any additional statements to
19 you after you advised him of his rights off that rights
20 waiver form?

21 A. No.

22 Q. Again, he said he was out buying shaving
23 cream?

24 A. That's pretty much --

25 MR. RADER: Objection, leading, Your

1 Honor.

2 THE COURT: Sustained.

3 Q. At what point did you break off your
4 interview of the defendant?

5 A. Well, once -- as I stated, I did not ask
6 him very much in the car, and once I got back to District
7 1 I, after reading him his rights, Detective Huffman took
8 over and I went to the garage to look over the vehicle.

9 Q. Okay. What did you find when you looked
10 over the vehicle?

11 A. The one item I found was a cartridge in
12 the driver's seat, basically on the right-hand side of the
13 driver's seat of the vehicle.

14 Q. Officer, I'll hand you what have been
15 marked as State's Exhibits 4 and 5. Can you identify what
16 those particular exhibits are, sir?

17 A. Yes. Four is the photo of the driver's
18 seat of the vehicle, and five is a photo of the vehicle
19 itself.

20 Q. And what specifically did you recover or
21 did you find contained in the vehicle?

22 A. It was a shell casing.

23 Q. And I know that in front of you are items
24 that were contained in State's Exhibit Number 10. Do you
25 remember the caliber of the particular shell casing that

1 you recovered from the scene, or from the vehicle?

2 A. I believe it was a .380.

3 Q. Would that be the same caliber that is
4 consistent with the shell casings that I'm handing you
5 that were contained in State's Exhibit 10?

6 A. These all appear to be .380 shell
7 casings.

8 Q. Okay. Did you recover a gun from the
9 vehicle?

10 A. I didn't hear the question, sir.

11 Q. Did you recover a gun from the vehicle?

12 A. No, I did not.

13 Q. Were there any other items contained in
14 the vehicle besides the shell casing that you recovered?

15 A. None that I remember.

16 Q. Do you remember a baseball cap?

17 A. Not offhand, I do not, sir.

18 MR. ANDERSON: Thank you.

19 Judge, I have no further questions of
20 this witness at this time.

21 THE COURT: Thank you.

22 Any questions, Mr. Rader?

23 CROSS-EXAMINATION

24 BY MR. RADER:

25 Q. Good afternoon.